

3 October 1974

## MEMORANDUM FOR THE RECORD

U.S. v. IBM

1. Dick Irvine of Justice (Phone No. 187-2484) called today to inquire regarding the Agency's position on the first 22 documents which are identified in the attachment to Commerce's letter of 26 August. I told him that we would have a response for them in the very near future. According to him, there is a pretrial hearing scheduled for 4 October, and Justice wished to be in a position of advising the Court when these materials could be made available. During the course of our discussion, Irvine cited still another document wanted by IBM. He identified this as being a memorandum from [ ] of CIA to Dr. [ ] entitled "Possible Side Benefits from Computer Export Planning Studies" dated March 29, 1973. He stated that Commerce had been in contact with us in regard to releasing that document. I told him that our files failed to show any correspondence from Commerce or discussions with it regarding the release of that material. Irvine suggested that since this was in conflict with the information he had received, he suggested I call Ed Weintraub at Commerce. The call to Weintraub was a total waste of time, with him insisting that Commerce had notified us of its intention to release the document cited above, while at the same time, I was just as adamant in arguing to the contrary. Weintraub is to check his files and to provide me with the data to confirm his position. I told him I would welcome the challenge.

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failed to disclose to the Examiner the material and relevant prior art publication identified in Appendix B hereto, and also the work reported therein, which was known to at least one of said applicants during the pendency of said application.

(B) While the application for said patent was pending in the Patent Office, the applicants therefor in an amendment filed July 29, 1968, stressed certain purportedly novel features of their alleged invention which had already been taught or made obvious by the above said prior art Appendix B publication known to at least one of said applicants by the date of said amendment.

34. Further answering on information and belief, defendant avers that it is entitled at least to a royalty free, non-exclusive license to practice the alleged invention of the patent in suit, by reason of money, time, material, facilities and/or personnel provided by defendant in the making of said alleged invention or of a material part thereof.

35. Further answering on information and belief, defendant avers that while the application for the patent in suit was pending in the Patent Office, the named inventors thereof or those acting in their or plaintiffs' behalf so limited and/or defined the claims of said application that the plaintiffs here cannot now seek for or maintain any

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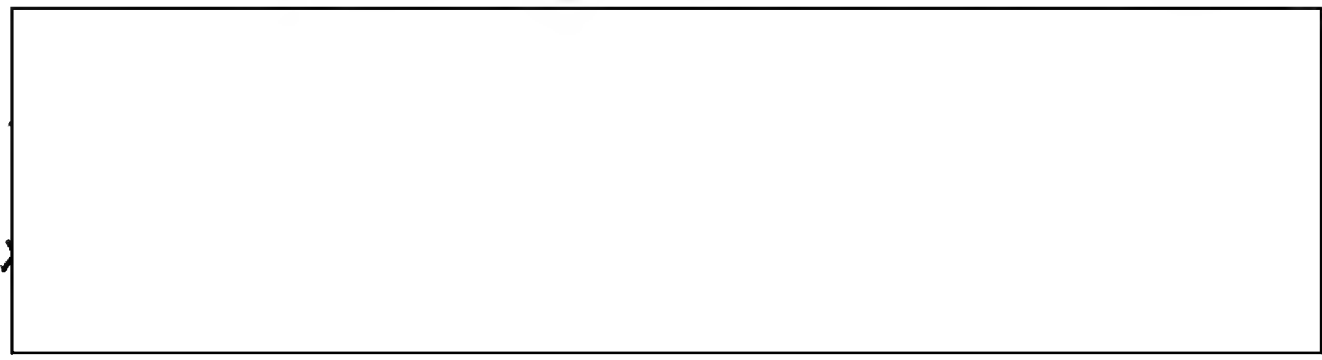
Memorandum from [ ] of CIA to Dr. Guss W. Weiss  
entitled "Possible Side Benefits from Computer Export Planning  
Studies" dated March 29, 1973 \*

NOTE: Called in by Dick Irvine of Justice 3 October 1974.  
This document is an addition to the first 22 listed in the  
attachment to Commerce's letter to us of 26 August.

\* THIS DOC NOT IN WEINTRAUB'S LIST  
OF 26 AUGUST OR  
LISTING ATTACHED TO COMMERCE'S  
(PARLETTE) LTR OF 26 AUG  
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27 SEP

JSW

Ltr to COMUSMACV  
AFTER RECEIPT OF  
Ltr RE 4 LOCs  
GIVEN to IBU

Respond by referring to  
prev letter re dissemination  
and point out same  
rules apply re  
disclosure w/o consent  
of originating agency  
Ask that it not be  
repeated

Advise IBU to  
disseminate first & 2  
does listed provided  
handled in accordance  
with Protective Order

Check by 11/1 before  
release the letter.